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5	Attorney for Defendants: XYRIS ENTERPRISE, INC;	
6	ATKINSON CARE HOME; MUQUET DADABHOY;	
7	TERÈSITA CASTANEDA	
8		S DISTRCIT COURT ICT OF CALIFORNIA
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10	EDGARDO SEMINIANO)	CASE NO.: CV10 1673 PSG (JEMx)
11	Plaintiff,	DEFENDANTS' SEPARATE
	vs.	STATEMENT OF DISPUTED AND UNDISPUTED FACTS IN OPPOSITION
12)	TO PLAINTIFF'S MOTION FOR
13	XYRIS ENTERPRISE, INC;	SUMMARY JUDGMENT
14	ATKINSON CARE HOME;) MUQUET DADABHOY;)	Date: Jan 03, 2011
15	TERESITA CASTANEDA,	Time: 11:00 a.m.
	Defendants)	Department: 10A Judge: Honorable J. Tucker
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18	DEFENDANTS hereby respectfully submit this	s statement of disputed and undisputed facts in
19	opposition to Plaintiff's motion for summary ju	idgment.
20		
21	PURPORTEDLY UNDISPUTED FACTS	EVIDENTIARY SUPPORT
22	1. Xyris Enterprise, Inc. was a joint	UNDISPUTED
23	employer of Edgardo Seminiano	CNDISTCTED
24		
	between July 29, 2008, and December	
25	2, 2009.	
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	Defendants' Statement of I	Disputed and Undisputed Facts
	Detendants Statement of I	1
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1	PU	JRPORTEDLY UNDISPUTED FACTS	EVIDENTIARY SUPPORT
2	2.	Atkinson Care Home was a joint	UNDISPUTED
3		employer of Edgardo Seminiano	
4		between July 29, 2008, and December	
5		2, 2009.	
	3.	Muquet Dadabhoy was a joint	UNDISPUTED
6		employer of Edgardo Seminiano	
7		between July 29, 2008, and December	
8		2, 2009.	
9	4.	Teresita Castaneda was a joint	UNDISPUTED
10		employer of Edgardo Seminiano	
11		between July 29, 2008, and December	
12		2, 2009.	
13	5.	Between July 29, 2008, and	UNDISPUTED
		December 2, 2009, Plaintiff worked as	
14		a caregiver at Atkinson Care Home.	
15	6.	Between July 29, 2008, and	UNDISPUTED
16		December 2, 2009, Atkinson Care	
17		Home was a licensed residential care	
18		facility for the elderly located at 17035	
19		Atkinson Avenue, Torrance, CA 90504.	
20	7.	Between July 29, 2008, and	UNDISPUTED
21		December 2, 2009, Defendants Muquet	
22		Dadabhoy and Teresita Castaneda were	
		the licensees of the Atkinson Care	
23		Home.	
24	8.	Between July 29, 2008, and	UNDISPUTED
25		December 2, 2009, Defendants Muquet	
26		Dadabhoy and Teresita Castaneda	
27		jointly operated the Atkinson Care	
28		Home as partners.	

1	PU	URPORTEDLY UNDISPUTED FACTS	EVIDENTIARY SUPPORT
2	9.	Between July 29, 2008, and	UNDISPUTED
3		December 2, 2009, Defendants Muquet	
4		Dadabhoy and Teresita Castaneda were	
5		required to operated the Atkinson Care	
		Home 24 hours per day, 7 days per	
6		week.	
7	10.	Between July 29, 2008, and	DISPUTED (DECLARATION OF
8		December 2, 2009, Plaintiff Edgardo	MUQUET DADABHOY; EXHIBITS C &
9		Seminiano was required by Defendants	D)
10		Muquet Dadabhoy and Teresita	
11		Castaneda to request permission to	
12		leave Atkinson Care Home.	
13	11.	Plaintiff Edgardo Seminiano was	DISPUTED (DECLARATION OF
		never unconditionally allowed to leave	MUQUET DADABHOY; EXHIBITS C &
14		Atkinson Care Home more than 57	D)
15		hours in any week between July 29,	
16		2008, and December 2, 2009.	
17	12.	Plaintiff's hours worked each week	DISPUTED (DECLARATION OF
18		between July 29, 2008, and December	MUQUET DADABHOY; EXHIBITS C &
19		2, 2009, were 111 or more.	D)
20			
21	13.	Edgardo Seminiano did not have	DISPUTED
		private living quarters while working at	(DECLARATION OF MUQUET
22		Atkinson Care Home.	DADABHOY)
23	14.	Between July 29, 2008, and	DISPUTED
24		December 2, 2009, Edgardo Seminiano	(DECLARATION OF MUQUET
25		slept on a couch at Atkinson Care	DADABHOY)
26		Home.	
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1	PU	URPORTEDLY UNDISPUTED FACTS	EVIDENTIARY SUPPORT
2	15.	Xyris Enterprise, Inc. owes Edgardo	DISPUTED
3		Seminiano \$53,649.18 in unpaid	(DECLARATION OF MUQUET
4		minimum wage and overtime	DADABHOY; EXHIBITS B-D)
5		compensation under the Fair Labor	
		Standards Act.	
6	16.	Atkinson Care Home owes Edgardo	DISPUTED
7		Seminiano \$53,649.18 in unpaid	(DECLARATION OF MUQUET
8		minimum wage and overtime	DADABHOY; EXHIBITS B-D)
9		compensation under the Fair Labor	
10		Standards Act.	
11	17.	Defendant Muquet Dadabhoy owes	DISPUTED
12		Edgardo Seminiano \$53,649.18 in	(DECLARATION OF MUQUET
13		unpaid minimum wage and overtime	DADABHOY; EXHIBITS B-D)
		compensation under the Fair Labor	
14		Standards Act.	
15	18.	Defendant Teresita Castaneda owes	DISPUTED
16		Edgardo Seminiano \$53,649.18 in	(DECLARATION OF MUQUET
17		unpaid minimum wage and overtime	DADABHOY; EXHIBITS B-D)
18		compensation under the Fair Labor	
19		Standards Act.	
20	19.	Xyris Enterprise, Inc. owes Edgardo	DISPUTED
		Seminiano \$53,649.18 liquidated	(DECLARATION OF MUQUET
21		damages under the Fair Labor	DADABHOY; EXHIBITS B-D)
22		Standards Act.	
23	20.	Atkinson Care Home owes Edgardo	DISPUTED
24		Seminiano \$53,649.18 liquidated	(DECLARATION OF MUQUET
25		damages under the Fair Labor	DADABHOY; EXHIBITS B-D)
26		Standards Act.	
27			

1	PU	URPORTEDLY UNDISPUTED FACTS	EVIDENTIARY SUPPORT
2	21.	Muquet Dadabhoy owes Edgardo	DISPUTED
3		Seminiano \$53,649.18 liquidated	(DECLARATION OF MUQUET
4		damages under the Fair Labor	DADABHOY; EXHIBITS B-D)
		Standards Act.	
5	22.	Teresita Castaneda owes Edgardo	DISPUTED
6		Seminiano \$53,649.18 liquidated	(DECLARATION OF MUQUET
7		damages under the Fair Labor	DADABHOY; EXHIBITS B-D)
8		Standards Act.	
9	23.	Xyris Enterprises, Inc. owes Edgardo	DISPUTED
10		Seminiano \$121,855.42 in unpaid	(DECLARATION OF MUQUET
11		overtime Compensation under	DADABHOY; EXHIBITS B-D)
12		California law.	
13	24.	Atkinson Care Home owes Edgardo	DISPUTED
14		Seminiano \$121,855.42 in unpaid	(DECLARATION OF MUQUET
		overtime Compensation under	DADABHOY; EXHIBITS B-D)
15		California law.	
16	25.	Muquet Dadabhoy owes Edgardo	DISPUTED
17		Seminiano \$121,855.42 in unpaid	(DECLARATION OF MUQUET
18		overtime Compensation under	DADABHOY; EXHIBITS B-D)
19		California law.	
20	26.	Teresita Castaneda owes Edgardo	DISPUTED
21		Seminiano \$121,855.42 in unpaid	(DECLARATION OF MUQUET
22		overtime Compensation under	DADABHOY; EXHIBITS B-D)
		California law.	D 10D1 ITED
23	27.	Xyris Enterprises, Inc. owes Edgardo	DISPUTED
24		Seminiano \$4,749.36 in compensation	(DECLARATION OF MUQUET
25		for meal period not received pursuant to	DADABHOY; EXHIBITS B-D)
26		California Labor Code Section 226.7.	
27			

PU	RPORTEDLY UNDISPUTED FACTS	EVIDENTIARY SUPPORT
28.	Atkinson Care Home owes Edgardo	DISPUTED
	Seminiano \$4,749.36 in compensation	(DECLARATION OF MUQUET
	for meal period not received pursuant to	DADABHOY; EXHIBITS B-D)
	California Labor Code Section 226.7.	
29.	Muquet Dadabhoy owes Edgardo	DISPUTED
	Seminiano \$4,749.36 in compensation	(DECLARATION OF MUQUET
	for meal period not received pursuant to	DADABHOY; EXHIBITS B-D)
	California Labor Code Section 226.7.	
30.	Teresita Castaneda owes Edgardo	DISPUTED
	Seminiano \$4,749.36 in compensation	(DECLARATION OF MUQUET
	for meal period not received pursuant to	DADABHOY; EXHIBITS B-D)
	California Labor Code Section 226.7.	
31.	Xyris Enterprise, Inc. owes Edgardo	DISPUTED
	Seminiano \$2,467.20 for continuing	(DECLARATION OF MUQUET
	wages pursuant to California Labor	DADABHOY; EXHIBITS B-D)
	Code Section 203.	
32.	Atkinson Care Home owes Edgardo	DISPUTED
	Seminiano \$2,467.20 for continuing	(DECLARATION OF MUQUET
	wages pursuant to California Labor	DADABHOY; EXHIBITS B-D)
	Code Section 203.	
33.	Muquet Dadabhoy owes Edgardo	DISPUTED
	Seminiano \$2,467.20 for continuing	(DECLARATION OF MUQUET
	wages pursuant to California Labor	DADABHOY; EXHIBITS B-D)
	Code Section 203.	
34.	Teresita Castaneda owes Edgardo	DISPUTED
	Seminiano \$2,467.20 for continuing	(DECLARATION OF MUQUET
	wages pursuant to California Labor	DADABHOY; EXHIBITS B-D)
	Code Section 203.	

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35.	Xyris Enterprise, Inc. owes Edgardo	DISPUTED
	Seminiano \$4000.00 for failure to	(DECLARATION OF MUQUET
	comply with California Labor Code	DADABHOY; EXHIBITS B-D)
	Section 226.	
36.	Atkinson care Home owes Edgardo	DISPUTED
	Seminiano \$4000.00 for failure to	(DECLARATION OF MUQUET
	comply with California Labor Code	DADABHOY; EXHIBITS B-D)
	Section 226.	
37.	Muquet Dadabhoy owes Edgardo	DISPUTED
	Seminiano \$4000.00 for failure to	(DECLARATION OF MUQUET
	comply with California Labor Code	DADABHOY; EXHIBITS B-D)
	Section 226.	
38.	Teresita Castaneda owes Edgardo	DISPUTED
	Seminiano \$4000.00 for failure to	(DECLARATION OF MUQUET
	comply with California Labor Code	DADABHOY; EXHIBITS B-D)
	Section 226.	
	Seminiano \$4000.00 for failure to comply with California Labor Code	(DECLARATION OF MUQUET DADABHOY; EXHIBITS B-D)

1. Between July 29, 2008, and	(DECLARATION OF MUQUET
December 2, 2009, Edgardo Seminiano	DADABHOY; EXHIBITS B-D)
worked as a caregiver at Atkinson Care	
Home.	

1	2.	Between July 29, 2008, and December	(DECLARATION OF MUQUET
1	2.	2, 2009, Edgardo Seminiano also lived at	DADABHOY; EXHIBITS B-D)
2		the Atkinson Care Home, where he	DADABITOT, EXTIBITS B-D)
3		worked.	
4			(DECLADATION OF MIQUET
5	3.	Although Atkinson Care Home was	(DECLARATION OF MUQUET
6		legally obligated to operate for 24 hours	DADABHOY; EXHIBITS B-D)
		per day, 7 days per week, Edgardo	
7		Seminiano was only employed to work 40-	
8		hours per week, and only required to stay	
9		on the premises for those hours.	
10	4.	Plaintiff only remained on the	(DECLARATION OF MUQUET
11		premises of Atkinson Care Home	DADABHOY; EXHIBITS B-D)
		beyond work hours for non-work-related	
12		reasons because that is where he was	
13		housed and had access to food.	
14	5.	Edgardo Seminiano was away from	(DECLARATION OF MUQUET
15		Atkinson Care Home regularly and	DADABHOY; EXHIBITS B-D)
16		frequently for non-work related, personal	
17		reasons.	
18	_	6. At the beginning of the work	(DECLARATION OF MUQUET
		relationship, Atkinson Care Home	DADABHOY; EXHIBITS B-D)
19		agreed to provide for Edgardo	
20		Seminiano's housing and living	
21		expenses to save traveling time and	
22		cost, along with \$1800 per month as	
23		salary paid in check or cash.	
24	7.	Edgardo Seminiano received living	(DECLARATION OF MUQUET
		accommodations, was paid \$1800 each	DADABHOY; EXHIBITS B-D)
25		month by check and cash, and received	
26		additional amounts of cash.	
27			<u> </u>

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1	8. Edgardo Seminiano contacted (DECLARATION OF MUQUET
1	Muquet Dadabhoy to negotiate an out- DADABHOY)
2	of-court settlement of the matter and
3	has settled the matter with Defendants
4	for \$12,000.
5	
6	DATED: December 7, 2010
7	
8	AMV CHOCH
9	AMY GHOSH
10	Amy Ghosh, Attorney for Defendants
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	Defendants' Statement of Disputed and Undisputed Facts 9